

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

CURTIS LEE HENDERSON SR.,)	No. C 07-2838 SBA (PR)
)	
Plaintiff,)	<u>ORDER GRANTING PLAINTIFF'S</u>
)	<u>MOTION FOR LEAVE TO FILE</u>
v.)	<u>SECOND AMENDED COMPLAINT</u>
)	
)	(Docket no. 12)
CALIFORNIA DEPARTMENT OF)	
CORRECTION, et al.,)	
)	
Defendants.)	

In this pro se civil rights action, Plaintiff has filed a motion for leave to file a second amended complaint (docket no. 12).

A plaintiff may amend his complaint once as a matter of course at any time before a responsive pleading is served. See Fed. R. Civ. P. 15(a). Where a plaintiff seeks to amend after a responsive pleading has already been served, however, the decision whether to grant leave to amend is committed to the sound discretion of the trial court. Waits v. Weller, 653 F.2d 1288, 1290 (9th Cir. 1981). Federal Rule of Civil Procedure 15(a) is to be applied liberally in favor of amendments and, in general, leave shall be freely given when justice so requires. Janicki Logging Co. v. Mateer, 42 F.3d 561, 566 (9th Cir. 1994).

The Court notes that the defendants in this action have not been served at this time. Plaintiff may as a matter of course amend his complaint because a responsive pleading has not yet been served. See Fed. R. Civ. P. 15(a).

Accordingly, Plaintiff's motion for leave to file a second amended complaint (docket no. 12) is GRANTED.

The Clerk of the Court is directed to file the document attached to Plaintiff's motion, which is labeled "Second Amended Complaint Under the Civil Rights Act, 42 U.S.C. §§ 1983," and docket the aforementioned document as Plaintiff's "Second Amended Complaint." The Clerk of Court is

1 further directed to mark the Second Amended Complaint as filed on February 28, 2008, the date it
2 was received by the Court. The Court will review Plaintiff's Second Amended Complaint in a
3 separate written Order.

4 This Order terminates Docket no. 12.

5 IT IS SO ORDERED.

6 DATED: 3/4/08

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8 SAUNDRA BROWN ARMSTRONG
9 United States District Judge
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United States District Court
For the Northern District of California

1 UNITED STATES DISTRICT COURT
2 FOR THE
3 NORTHERN DISTRICT OF CALIFORNIA

4 CURTIS LEE HENDERSON SR,

5 Plaintiff,

6 v.

7 CALIFORNIA DEPARTMENT OF
8 CORRECTION et al,

9 Defendant.
_____/

Case Number: CV07-02838 SBA

CERTIFICATE OF SERVICE

10 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District
11 Court, Northern District of California.

12 That on March 6, 2008, I SERVED a true and correct copy(ies) of the attached, by placing said
13 copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said
14 envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located
15 in the Clerk's office.

16 Curtis Lee Henderson H-43488
17 Corcoran State Prison
18 P.O. Box 3481
19 Corcoran, CA 93212

20 Dated: March 6, 2008

Richard W. Wieking, Clerk
By: LISA R CLARK, Deputy Clerk